



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: State Board of Health

- ☒ Preproposal Statement of Inquiry was filed as WSR 08-07-097 ; or
☐ Expedited Rule Making—Proposed notice was filed as WSR ; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR
☐ Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

Chapter 246-105 WAC, creating a new chapter; repealing WAC 246-100-166 Immunization of childcare and school children against certain vaccine-preventable diseases.

Hearing location(s): Yakima Convention Center
10 North 8th Street
Yakima, WA 98901-2515

Submit written comments to:

Name: Jeff Wise
Address: Washington State Department of Health
Immunization Program CHILD Profile
PO Box 47843
Olympia, WA 98504-7843
Website: <http://www3.doh.wa.gov/policyreview/>
fax (360) 236-5390 by (date) 10/03/2008

Date: October 08, 2008

Time: 1:00 pm

Assistance for persons with disabilities: Contact

Desiree Robinson by 10/01/2008

TTY (800) 833-6388 or () 711

Date of intended adoption: 10/08/2008
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal will: 1) Add pneumococcal to the list of vaccine-preventable diseases that children are to be vaccinated against before attending child care centers and preschools. Pneumococcal vaccination is routinely recommended by the Advisory Committee on Immunization Practices (ACIP) for children two to fifteen months of age. It is estimated that this requirement will help increase Washington's immunization coverage for this disease to 95 percent by 2011. 2) Update the ACIP recommended immunization schedule from the 2007 version to the 2008 version so that the rule reflects the best available science. 3) Repeal WAC 246-100-166 and re-codify it into nine sections under new chapter 246-105 WAC while clarifying existing terms and policies. This will allow any future "housekeeping" activity to the rule, such as annual ACIP schedule updates, to be done through a more efficient process

Reasons supporting proposal:

This rule is necessary to: 1) protect the health of young children from pneumococcal disease outbreaks by decreasing disease incidence through vaccination, 2) maintain consistency between Washington's school and child care center immunization requirements and national standards set by the ACIP, and 3) provide clarity for the reader and administrative efficiency of the rule itself in preparation for future proposals.

Statutory authority for adoption:
RCW 28A.210.140

Statute being implemented:
RCW 28A.210.140

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

DATE

9/2/08

NAME (type or print)

Craig McLaughlin

SIGNATURE

TITLE

Executive Director, State Board of Health

CODE-REVISER-USE-ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 2 2008

TIME

11:31

WSR

08-18-061

AM
PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

An effective date of July 1, 2009 is specifically chosen for the revised federal immunization schedule and the new pneumococcal vaccination requirement to allow schools and child care centers adequate time for implementation including parental education. It also correlates with our state fiscal year cycle for vaccine purchasing, and falls between school years for further ease of implementation for schools. All other aspects of this rule will be effective 31 days after filing the rule making order with the Code Reviser.

Name of proponent: (person or organization) Washington State Board of Health

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jeff Wise	DOH, Town Center #2, Tumwater, WA	(360) 236-3483
Implementation..... Janna Bardi	DOH, Town Center #2, Tumwater, WA	(360) 236-3568
Enforcement..... Janna Bardi	DOH, Town Center #2, Tumwater, WA	(360) 236-3568

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

☒ No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Jeff Wise

Address: Washington State Department of Health

PO Box 47843

Olympia WA, 98504

phone (360) 236-3483

fax (360) 236-3590

e-mail jeff.wise@doh.wa.gov

☐ No: Please explain:

Chapter 246-105 WAC

IMMUNIZATION OF CHILD CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES

NEW SECTION

WAC 246-105-010 Purpose. The purpose of this rule is to protect children and the public against certain vaccine-preventable diseases. Under the authority of the board of health, this rule describes the immunization requirements of children attending schools and child care centers.

NEW SECTION

WAC 246-105-020 Definitions. For the purposes of this chapter, the words and phrases in this section have the following meanings unless the context clearly indicates otherwise:

- (1) "Certificate of exemption (COE)" means a form that is:
 - (a) Approved by the department and consistent with the requirements of WAC 246-105-050(2); or
 - (b) An immunization form produced by the state immunization information system.
- (2) "Certificate of immunization status (CIS)" means a form that is:
 - (a) Approved by the department and consistent with the requirements of WAC 246-105-050(1); or
 - (b) An immunization form produced by the state immunization information system.
- (3) "Chief administrator" means:
 - (a) The person with the authority and responsibility for supervising the immediate operation of a school or child care center; or
 - (b) A person designated in writing by the statutory or corporate board of directors of the school district or school; or
 - (c) If (a) and (b) of this subsection do not apply, a person or persons with the authority and responsibility for supervising the general operation of the school district or school.
- (4) "Child" means any person regardless of age admitted to:

(a) Any public school district; or
(b) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060; or

(c) Any child care center.

(5) "Child care center" means any licensed facility or center that regularly provides care of children for periods of less than twenty-four hours per day subject to licensure by the department of early learning as described in chapter 43.215 RCW.

(6) "Conditional" means a type of temporary immunization status where a child is not immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization but is in the process of becoming fully immunized. A child in this status is allowed to attend a school or child care center provided:

(a) The parent has submitted the proper documentation under WAC 246-105-060 as evidence of progressing toward completing his or her required immunization(s); and

(b) The child receives the required immunizations within the time limits according to WAC 246-105-080(2).

(7) "Department" means the department of health.

(8) "Exempt" or "exemption" means a type of immunization status where a child has not been immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization due to medical, religious, philosophical or personal reasons. A child in this status is allowed to attend a school or child care center only by providing the required COE form.

(9) "Full immunization" or "fully immunized" means an immunization status where a child has provided proof of acquired immunity or has been vaccinated with immunizing agents against each of the vaccine-preventable diseases listed in WAC 246-105-030 according to the national immunization guidelines described in WAC 246-105-040.

(10) "Immunizing agent" means any vaccine or other immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against vaccine-preventable diseases.

(11) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

(12) "National immunization guidelines" means guidelines that are:

(a) Approved by the Advisory Committee on Immunization Practices (ACIP); and

(b) Published in the *Morbidity and Mortality Weekly Report* (MMWR); and

(c) Consistent with the terms and conditions set forth in WAC 246-105-040.

(13) "Parent" means, for the purposes of signature

requirements in this rule:

(a) The mother, father, legal guardian, or any adult *in loco parentis* of a child seventeen years of age or younger; or

(b) A person eighteen years of age or older; or

(c) An emancipated minor.

(14) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

NEW SECTION

WAC 246-105-030 Vaccine-preventable diseases children must be protected against for full immunization. In accordance with the conditions of this chapter, a child is required to be vaccinated against, or show proof of acquired immunity for, the following vaccine-preventable diseases before attending school or a child care center:

- (1) Diphtheria;
- (2) Tetanus;
- (3) Pertussis (whooping cough);
- (4) Poliomyelitis;
- (5) Measles (rubeola);
- (6) Mumps;
- (7) Rubella;
- (8) Hepatitis B;
- (9) Haemophilus influenzae type B disease;
- (10) Varicella; and
- (11) Effective July 1, 2009, pneumococcal.

NEW SECTION

WAC 246-105-040 Requirements based on national immunization guidelines. The department shall develop and distribute implementation guidelines for schools and child care centers that are consistent with the national immunization guidelines described in this section and the requirements in WAC 246-105-090.

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed in WAC 246-105-030 at ages and intervals according to the following published national immunization guidelines:

(a) Effective July 1, 2008, the "Recommended Immunization Schedule for Persons Aged 0-18 Years, United States, 2007"; as published in the *Morbidity and Mortality Weekly Report (MMWR)*, 2007;55(51 and 52):Q1-4.

(b) Effective July 1, 2009, the "Recommended Immunization Schedule for Persons Aged 0-18 Years, United States 2008"; as published in MMWR 2008;57(01):Q1-4.

(2) In addition to the ages and intervals required by subsection (1) of this section, the following vaccine administration guidelines shall apply. Schools and child care centers may accept one of the following as proof of a child's immunization status against varicella:

(a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or

(b) Diagnosis or verification of a history of varicella disease by a health care provider; or

(c) Diagnosis or verification of a history of herpes zoster by a health care provider; or

(d) Serologic proof of immunity against varicella; or

(e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade levels described in the department's implementation guidelines according to WAC 246-105-090(2).

NEW SECTION

WAC 246-105-050 Required documentation of immunization status. Before a child may attend a school or child care center, a parent must provide proof of immunization status using the following types of documentation:

(1) A department-approved CIS form which must be signed by the parent. The CIS form must include:

(a) Name of child or student;

(b) Birth date;

(c) Type of vaccine(s) administered;

(d) Month, day, and year of each dose of vaccine received;

(e) A section to indicate whether an accompanying COE form has been provided;

(f) A section to document serologic proof of immunity which must be signed by a licensed health provider and include a copy of a lab report; and

(g) Parent signature and date.

(2) A department-approved COE form signed by a parent. A COE form must include:

(a) Name of child or student;

(b) Birth date;

(c) A section to indicate a medical exemption for one or more vaccines which must be signed by a licensed health care provider;

(d) A section to indicate a religious exemption for one or more vaccines;

(e) A section to indicate a personal or philosophical exemption for one or more vaccines;

(f) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be excluded from the school or child care center for the duration of the outbreak; and

(g) Parent signature and date.

NEW SECTION

WAC 246-105-060 Duties of schools and child care centers.

(1) Schools and child care centers shall require a CIS form and, if applicable, a COE form, for new enrollees registering for admission into kindergarten through grade twelve or a child care center as a requirement of admission. Information on the CIS is used to determine if a child is fully immunized, conditional or exempt. A CIS form is required to provide evidence of full immunization upon admission unless a parent submits the following additional documentation as proof of conditional or exempt status:

(a) For conditional status, evidence of satisfactory progress toward full immunization, including:

(i) Documentation of when the next immunization is due as determined by WAC 246-105-080(2);

(ii) Documentation of start or continuance towards full immunization status; and

(iii) Documentation that immunizations received are consistent with the national immunization guidelines described in WAC 246-105-040.

(b) For exempt status, a signed COE form indicating a medical, religious, philosophical or personal exemption.

(i) A medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy (D.O.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization.

(ii) If immunizations are deferred on a temporary basis for medical reasons, the student must receive the required immunization(s) no later than thirty days after the expiration of the medical exemption.

(2) In maintaining child immunization records, schools and child care centers shall:

(a) Keep all department-approved forms described in WAC 246-105-050 for each enrolled child attending their school or child care center.

(b) Keep a list of children currently with medical, religious, philosophical, or personal exemptions. This list must be transmitted to the local health department upon request.

(c) Return the department-approved CIS or applicable COE or a legible copy of such documents to the parent if the child is

withdrawn from a school or child care center or transferred from the school. A school or child care center may not withhold from the parent a child's department-approved CIS or COE for any reasons, including nonpayment of school or child care center fees.

(d) Provide access to immunization records to agents of the state or local health department of each child enrolled.

(3) In maintaining child immunization records, the chief administrator shall:

(a) Retain records for at least three years on a child who is excluded from school under this chapter. The record must include the child's name, address, and date of exclusion.

(b) Submit an immunization status report under chapter 28A.210 RCW either electronically on the internet or on a form provided by the department. The report must be submitted to the department by November 1 of each year. If a school opens after October 1, the report is due thirty days from the first day of school.

NEW SECTION

WAC 246-105-070 Duties of health care providers. Persons or organizations administering immunizations, either public or private, shall:

(1) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(2) Provide immunizations and records in accordance with chapter 246-100 WAC.

NEW SECTION

WAC 246-105-080 Criteria for excluding children from schools or child care centers. For any child excluded under subsection (1), (2), or (3) of this section, schools must use procedures consistent with chapters 180-38 and 392-380 WAC. A school or child care center shall exclude a child if one or more of the following applies:

(1) Parent(s) fail to provide a completed CIS form on or before the child's first day of attendance.

(2) A child admitted under conditional status has not received the required immunization(s) within thirty days after the last day of the interval in which the child was due to have received the next required dose according to WAC 246-105-040.

(3) A child has been admitted under a temporary medical exemption and the particular vaccine for which the exemption was

granted is no longer contraindicated and the child has not received the immunization within thirty days from the due date for completion of the next dose.

(4) A local health officer excludes a child from school or a child care center under chapter 246-110 WAC during an outbreak of a vaccine-preventable disease if the child has not been fully immunized against that disease due to:

- (a) Conditional status;
- (b) Medical exemption;
- (c) Religious exemption;
- (d) Philosophical exemption; or
- (e) Personal exemption.

NEW SECTION

WAC 246-105-090 Implementation. (1) The department shall develop and distribute implementation guidelines for schools and child care centers that:

(a) Interpret immunization requirements by grade level consistent with the ages specified in the national immunization guidelines and this chapter; and

(b) Reflect national immunization guidelines for children who did not receive required immunizations prior to entry into kindergarten or first grade, and for whom a full series of immunizations is not recommended.

(2) The department may develop school implementation guidelines that waive or modify immunization requirements when a phasing-in period is warranted for a new immunization mandate, when there is limited availability of a required immunizing agent, or when new information about the safety or efficacy of an immunizing agent prompts a reevaluation of an existing vaccination requirement. Any waiver or modification must:

(a) Reflect the best available medical research as indicated by the ACIP or the state health officer recommendation;

(b) Identify a specific vaccine-preventable disease or immunizing agent;

(c) Identify a specific cohort of children by age or grade level;

(d) Be limited in duration; and

(e) Be approved by the board.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-100-166

Immunization of child care and school children against certain vaccine-preventable diseases.